

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LANCE BURKE	:	CIVIL ACTION
	:	
vs.	:	
	:	
GOLDEN RAM, INC., et al.	:	NO. 03-5129

**MEMORANDUM**

**ROBERT F. KELLY, Sr. J.**

**DECEMBER 16, 2004**

The Plaintiff has filed a motion for permission to proceed in forma pauperis and includes therein a request for appointment of counsel.

It appears from the affidavit that he has filed that he has had an average income of \$1,066.00 over the last 12 months and expects \$1,660.00 next month. He is 34 years of age, unmarried and a very experienced restaurant kitchen worker and kitchen manager. Even his former employer who was a defendant in this case testified that he was an able employee and had offered him employment at one of his other restaurants but that the Plaintiff did not accept it.

He lists his 63 year old mother as one who relies on him for support but does not indicate any income she may have nor does he indicate whether or not she has income from social security or any other source.

In my view he is able to provide the small amount of filing fee and any financial hardship this would place upon him is strictly self-inflicted.

As to his request for the appointment of counsel I point out that he in fact had counsel who moved to withdraw from the case after Plaintiff's deposition had been taken. Since that time the Plaintiff has demonstrated the ability to represent himself, he has the ability to

articulate his position and certainly understands his claim. The facts and circumstances of his case are certainly within his knowledge because he was one of the participants in all of the events that took place. After having heard the entire trial and directing a verdict at the conclusion thereof it is obviously my opinion that his claim is without merit. See Tabron vs. Grace, 6 F.3d 147 (1993). For these reasons I enter the following Order.

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**ORDER**

**AND NOW**, this 16th day of December, 2004, Plaintiff's motion to proceed in forma pauperis and for the appointment of counsel (Doc. No. 24) is DENIED.

BY THE COURT:

/s/ Robert F. Kelly  
ROBERT F. KELLY  
SENIOR JUDGE